

**STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC HEALTH  
BUREAU OF REGULATORY SERVICES**

In re: John Calderwood, S.S.I.  
P.O. Box 833  
Seymour, CT 06483

Petition No. 960130-033-003

**CONSENT ORDER**

WHEREAS, John Calderwood of Seymour, Connecticut (hereinafter "respondent") has been issued license number 002349 to practice subsurface sewage installation and/or cleaning by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 393a of the Connecticut General Statutes, as amended; and,

WHEREAS, the Department alleges that:

1. On or about April 1994 through and including the fall of 1995, respondent failed to have sufficient fill cover over the septic system installed at 344 Cobbler Lane, Southbury, Connecticut, as required by the Connecticut Public Health Code;
2. On or about August 1995, respondent failed to have sufficient fill cover and erosion controls over and around the septic system installed at 293 Cobbler Lane, Southbury, Connecticut, as required by the Connecticut Public Health Code. Additionally, the swale and berm below the driveway at such address was not installed as required by the Connecticut Public Health Code.
3. The above described facts constitute grounds for disciplinary action pursuant to Connecticut General Statutes Section 20-341f(d)(2) and/or (3), taken in conjunction with Connecticut Public Health Code Regulations §§19-13-B103d(b) and the Technical Standards VIII.

WHEREAS, respondent, in consideration of this Consent Order, has chosen not to contest the above allegations of wrongdoing but, while admitting no guilt or wrongdoing, agrees that for purposes of

this or any future proceedings before the Department of Public Health only, the above allegations in this Consent Order shall have the same effect as if proven and ordered after a full hearing held pursuant to §19a-9, §19a-14, and §20-341f(d)(2) and/or (3) of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §19a-17 and §20-341f(d) of the Connecticut General Statutes, as amended, John Calderwood hereby stipulates and agrees to the following:

1. He waives his right to a hearing on the merits of this case.
2. He shall be assessed a ~~three~~<sup>two</sup> thousand dollar (\$2,000.00) civil penalty payable by certified check to "Treasurer, State of Connecticut." Said civil penalty shall accompany the executed Consent Order, and shall reference this petition number on the face of the check.
3. Respondent's license shall be placed on probation for a period of one (1) year under the following terms and conditions:
  - a. Every local director of health in such districts in which respondent is conducting business shall be provided with a copy of this Consent Order within fifteen (15) days of its effective date. Such local director(s) of health shall provide written confirmation to the Department acknowledging receipt and review of the Consent Order.
  - b. During the period of probation, respondent shall obtain from the local director of health or his/her agent and provide to the Department, no less than twenty-four (24) hours prior to commencement of any work at a job site, copies of work permit notices for each and every subsurface sewer installation, modification, extraction and/or repair for which he is responsible.
  - c. During the period of probation, respondent shall obtain written approval notices and final inspection reports from the local director of health or his/her agent and provide to

the Department, no less than one (1) week from the date of receipt of said written approval, copies of such written approval notices for each and every subsurface sewer installation, modification, extraction and/or repair for which he is responsible.

Respondent shall cause the local director of health or his/her agent to state, *inter alia*, in such reports that respondent has provided sufficient fill cover and erosion controls over and around septic systems installed, modified and/or extracted.

- d. The local director of health or his/her agent shall have the right to monitor respondent's practice by any other reasonable means which he or she deems appropriate. Respondent shall fully cooperate with the local director of health or his/her agent in providing such monitoring.

5. All correspondence and reports are to be addressed to:

Frank A. Schaub, Supervising Sanitary Engineer  
Department of Public Health  
Division of Environmental Health  
410 Capitol Avenue, MS # 51SEW  
P.O. Box 340308  
Hartford, CT 06134-0308

6. That he shall comply with all state and federal statutes and regulations applicable to his licensure.
7. That he understands that this Consent Order is a matter of public record.
8. That any alleged violation of any provision of this Consent Order, may result in the following procedures at the discretion of the Department:
  - a. The Department shall notify respondent in writing by first-class mail that the term(s) of this Consent Order have been violated, provided that no prior written consent for deviation from said term(s) has been granted.

- b. Said notification shall include the acts or omission(s) which are alleged to violate the term(s) of this Consent Order.
  - c. Respondent shall be allowed fifteen (15) days from the date of the mailing of notification required in paragraph 8a above to demonstrate to the satisfaction of the Department that he has complied with the terms of this Consent Order or, in the alternative, that he has cured the alleged violation in question.
  - d. If respondent does not demonstrate compliance or cure the alleged violation by the limited fifteen (15) day date certain contained in the notification of violation to the satisfaction of the Department, he shall be entitled to a hearing before the Commissioner who shall make a final determination of the disciplinary action to be taken.
  - e. Evidence presented to the Commissioner by either the Department or respondent in any such hearing shall be limited to the alleged violation(s) of the term(s) of this Consent Order.
9. That, in the event respondent violates any term of this Consent Order, respondent agrees immediately to refrain from practicing as a subsurface sewer installer or cleaner, upon request by the Department, for a period not to exceed 45 days. During that time period, respondent further agrees to cooperate with the Department in its investigation of the violation. Respondent further agrees that failure to cooperate with the Department in its investigation during said 45 day period shall constitute grounds for the Department to seek a summary suspension of respondent's license. In any such summary action, respondent stipulates that his failure to cooperate with the Department's investigation shall constitute an admission that his conduct constitutes a clear and immediate danger as required pursuant to Connecticut General Statutes, sections 4-182(c) and 19a-17(c).

10. That, in the event respondent violates any term of this Consent Order, said violation may also constitute grounds for the Department to seek a summary suspension of his license before the Commissioner.
11. That legal notice shall be sufficient if sent to respondent's last known address of record reported to the Licensure and Registration Section of the Division of Health Systems Regulation, or such other address as the respondent may advise said Licensure and Registration Section.
12. That this Consent Order is effective on the day it is approved and entered by the Department.
13. That the Department's allegations as contained in this Consent Order shall be deemed true in any subsequent proceeding before the Department only in which (1) his compliance with this Consent Order is at issue, or (2) his compliance with §20-341f(d)(2) and/or (3) of the General Statutes of Connecticut, as amended, is at issue.
14. That any extension of time or grace period for reporting granted by the Department shall not be a waiver or preclude the Department from taking action at a later time. The Department shall not be required to grant future extensions of time or grace periods.
15. That this Consent Order and terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Further, that this Order is not subject to appeal or review under the provisions of Chapters 54 or 368a of the General Statutes of Connecticut, provided that this stipulation shall not deprive respondent of any rights that he may have under the laws of the State of Connecticut or of the United States.
16. That this Consent Order is a revocable offer of settlement which may be modified by mutual agreement or withdrawn by the Department at any time prior to its being executed by the last signatory.

17. Respondent understands that the Department has complete and final discretion as to whether an executed Consent Order is approved or accepted.
18. That respondent has the right to consult with an attorney prior to signing this document.

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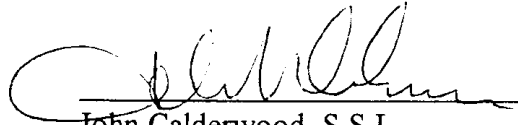
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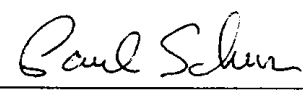
I, John Calderwood, have read the above Consent Order, and I stipulate and agree to the terms as set forth therein. I further declare the execution of this Consent Order to be my free act and deed.

  
John Calderwood, S.S.I.

Subscribed and sworn to before me this 6<sup>th</sup> day of June 1997.

  
Notary Public or person authorized  
by law to administer an oath or affirmation  
*Clerk of the Sup. Court*

The above Consent Order having been presented to the duly appointed agent of the Department of Public Health on the 7<sup>th</sup> day of May 1997, it is hereby accepted.

  
Paul Schur, Director  
Division of Environmental Health